

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**IN RE TRANSPACIFIC PASSENGER
AIR TRANSPORTATION
ANTITRUST LITIGATION**

Civil Case No. 3:07-cv-05634-CRB

MDL No. 1913

**This Document Relates To:

ALL ACTIONS**

**DECLARATION OF JOEL K. BOTZET IN
SUPPORT OF PLAINTIFFS' RESPONSE TO
MOTION TO ALLOW CLAIM OF
MICHAEL CHEKIAN**

1 I, JOEL K. BOTZET, declares and states that:

2 1. I am a Program Manager for Rust Consulting, Inc. (“Rust”), the Court-appointed
3 Claims Administrator for the class action Settlement in this case. My business address is 625
4 Marquette Avenue, Suite 900, Minneapolis, Minnesota 55402-2469. My business telephone
5 number is 612-359-2035. I am authorized to make this declaration on behalf of Rust.

6 2. Rust has extensive experience in class action matters, having provided settlement
7 administration services in class action lawsuits affecting millions of class members in cases
8 involving employment, consumers, banking and financial services, property, insurance,
9 securities, and products liability, among its more than 8,000 projects.

10 3. Except as otherwise stated, I am fully familiar with and have personal knowledge
11 of the matters stated in this declaration and am competent to testify about them if called upon to
12 do so. I submit this declaration to provide the Court and the parties to the above-captioned action
13 with information regarding claimant Michael Chekian.

14 **A. The Phase 1 Claim**

15 4. According to Rust’s records, Mr. Chekian submitted a claim to the Phase 1
16 Settlements on March 15, 2015. The claim reference number is I7B9RTO6. The contact
17 information associated with this Phase 1 claim is:

18 First and Last Name: Michael Chekian

19 Email: mike@cheklaw.com

20 Phone: (310) 709-2643

21 Address: 11400 W. Olympic Blvd. Ste. 200, Los Angeles, CA 90064

22 5. As part of his Phase 1 claim, Mr. Chekian claimed 16 tickets to each of the
23 following four Settlement Classes for a total of 64 tickets: Air France/Singapore Airlines/Vietnam
24 Settlement Class, Malaysian Air Settlement Class, ANZ Settlement Class, and PAL Settlement
25 Class.
26
27
28

B. The Phase 3 Claim

6. According to Rust's records, Mr. Chekian also submitted a claim to the Phase 3 Settlement on July 8, 2019. The claim reference number is Y5GQC76S. The contact information associated with this claim is:

First and Last Name: Michael Chekian

Email: mike@cheklaw.com

Phone: (310) 390-5529

Address: 445 South Figueroa Street, 31st Floor, Los Angeles, CA 90071

7. As part of his Phase 3 claim, Mr. Chekian claimed 346 tickets: 256 Settlement Class III tickets, 32 Japan Fuel Surcharge Settlement Class tickets, and 58 Satogaeri Settlement Class tickets.

C. Claims Administration

8. After the final claim filing deadline of April 1, 2020, Rust consolidated multiple claims submitted by the same individual to streamline the audit and distribution processes. Rust consolidated subsequent claim(s) submitted by the same individual with his or her initial claim. Rust did so by matching the name and at least one piece of contact information associated with the claims (*e.g.*, email, phone number, mailing address). The contact information for the initial claim then became the operative contact information for the consolidated claim of the individual unless the individual notified Rust of a change in contact information.

9. Regarding Mr. Chekian, the name and email on his Phase 3 claim matched the name and email on his Phase 1 claim. Rust therefore consolidated his Phase 3 claim with his Phase 1 claim. Although the phone and address on his Phase 3 claim did not match with the phone and address on his Phase 1 claim, the email match was sufficient for claim consolidation purposes.

10. Rust conducted a review and/or audit of all claims and sent audit letters to individual claimants whose claimed ticket counts exceeded 125 tickets overall and/or 50 Japan Fuel Surcharge Settlement Class tickets and/or 50 Satogaeri Settlement Class tickets.

1 11. Mr. Chekian's claims exceeded the threshold of 125 tickets overall and the
2 Satogaeri Settlement Class threshold of 50 tickets. Consequently, Rust sent an audit letter (and
3 later, a final determination letter) to Mr. Chekian at 11400 West Olympic Boulevard, Suite 200,
4 Los Angeles, California 90064, the address he listed in his Phase 1 claim form. Rust never
5 received a response to the audit letter by Mr. Chekian. The United States Post Office (USPS) did
6 not return the audit letter as undeliverable.

7 12. After completing the audit and the quality assurance review, Rust sent final
8 determination letters to all claimants on August 24, 2021.

9 13. Rust sent a final determination letter to Mr. Chekian at 11400 West Olympic
10 Boulevard, Suite 200, Los Angeles, California 90064, the address he listed in his Phase 1 claim
11 form. Rust never received a response to the final determination letter by Mr. Chekian. The USPS
12 did not return the final determination letter as undeliverable.

13 14. Besides the two claim forms, Rust did not receive any communication, including
14 notice of a change of address, from Mr. Chekian between March 15, 2015 when he filed his Phase
15 1 claim and March 17, 2022 when Plaintiffs distributed the net settlement funds. The first
16 communication Rust received from Mr. Chekian was an email inquiring about his Phase 3 claim
17 on March 24, 2022. Rust replied to Mr. Chekian's email on March 31, 2022 confirming that Rust
18 sent an audit letter to him at 11400 West Olympic Boulevard, Suite 200, Los Angeles, California
19 90064, the address Mr. Chekian listed in his Phase 1 claim form, and that the USPS did not return
20 the audit letter as undeliverable. Rust also informed Mr. Chekian that Rust had no record of any
21 communication from him before his March 24, 2022 email.

22
23 **D. Status of Settlement Distribution**

24 15. Plaintiffs and Rust distributed \$104,387,320.59 of the net settlement funds totaling
25 \$104,388,254.38 on March 17, 2022. As of April 15, 2022, class members have "cashed"
26 approximately \$90,500,000 through wire transfers or check deposits. About 25,109 checks remain
27 uncashed and have a check void date of June 15, 2022. Assuming Mr. Chekian's claims are valid,
28

1 there are insufficient funds to pay Mr. Chekian if class members cash all \$104,387,320.59
2 distributed. At this time, however, Rust cannot speculate as to whether there will be uncashed
3 checks after the check void date and, if so, the monetary value thereof.

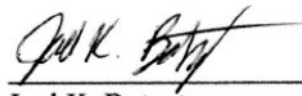
4 **E. Plaintiffs' Proposal to Mr. Chekian**

5 16. Rust and Plaintiffs have investigated Mr. Chekian's assertions. Rust is aware that
6 Plaintiffs asked Mr. Chekian to withdraw his Motion; in exchange, Plaintiffs would pay Mr.
7 Chekian's claims if (1) Mr. Chekian explains why his Phase 3 claim included significantly more
8 tickets than his Phase 1 claim (346 tickets v. 64 tickets); (2) Mr. Chekian provides documentation
9 supporting his claims (which he would have had to provide in response to the audit letter to be
10 eligible for a payment); (3) Rust determines that Mr. Chekian's claims are valid; and (4) there are
11 sufficient funds remaining in the net settlement funds after the check void date of June 15, 2022
12 to pay Mr. Chekian's claims. Rust is also aware Plaintiffs requested Mr. Chekian respond to this
13 proposal by 5 p.m. on April 20, 2022 and that Mr. Chekian never responded to the proposal.
14

15 17. Despite Rust confirming to Mr. Chekian that he was subject to an audit on March
16 31, 2022, Mr. Chekian has not provided any documentation to Rust supporting his claims to date.
17 Assuming his Phase 1 and 3 claims are valid, however, Rust calculates that Mr. Chekian would
18 be entitled to a payment of around \$46,000.

19 18. I declare under penalty of perjury under the laws of the United States that the
20 foregoing is true and correct to the best of my knowledge.

21 Executed this 22nd day of April 2022 in Minneapolis, Minnesota.

22
23 
24 _____
Joel K. Botzet